

National Legal Profession Reform Update



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On 30 April 2009, the Prime Minister announced the appointment of a National Legal Profession Taskforce, chaired by Roger Wilkins, AO, and Secretary of the Commonwealth Attorney-Generals Department.

The plan is the production of draft national legislation by 30 April 2010. The proposed reforms have major potential implications for the legal profession, Australia-wide; including the Territory and it is a major priority of the Law Society.

The Task Force has now released the following discussion papers, all of which are on the Law Society Website:

- National Legal Profession Reform Task Force - Legal Costs
- National Legal Profession Reform Task Force - Trust Accounting
- National Legal Profession Reform Task Force - Regulatory Framework
- National Legal Profession Reform Task Force – Fidelity Cover
- National Legal Profession Reform Task Force - Business Structures
- National Legal Profession Reform Task Force - Professional Indemnity Insurance

These papers have been considered by the National Legal Profession Reform Consultative Group (Consultative Group) which consists of various legal regulators, persons from Law Council Constituent

Bodies, a judge and others.

As sole Northern Territory representative on the Consultative Group a major role has been providing a Northern Territory perspective on the various issues, noting we are a small part of the legal profession overall, but have some unique issues.

The Law Council of Australia has been very much involved in the exercise, with Bill Grant, the Secretary General on the Task Force.

Concerns have been raised about the various issues, including timing, the overall proposed structure and level of independence of the National Legal Profession Board and Ombudsman and the regulatory approach adopted in some of the papers released.

It was determined at the last Law Council of Australia Directors Meeting that the Law Society or Bar Association council members or executives on the Consultative Group (called the K8) work on joint response papers to the discussion papers.

Over the Christmas period papers were produced on:

- Legal Costs
- Fidelity Cover
- Business Structures
- Trust Accounting
- Legal Ombudsman

It is likely the Law Council will support the responses.

Papers on Board structure and Professional Indemnity Insurance are being developed at the time of writing this article. Because of the tight timetable the Task Force has elected not to prepare other discussion papers but is working on the draft Bill. It is anticipated a draft will be available in February 2010 and will be supplemented by draft rules.

The Society is also liaising with the Northern Territory Government, the Northern Territory Bar Association and the judges.

The new scheme will be based on State and Territory legislation with the Board issuing rules. Concerns have been expressed about the independence of the profession and it is suggested a majority of members of the Board be selected by the Council of Chief Justices, the Law Council of Australia and the Australian Bar Association. This point has been made in writing and in discussions with the Task Force.

No information has been released on costs and it also remains a concern. The special concerns of smaller jurisdictions need to be taken into account and it is only now that extensive consultations are taking place. It is likely at this stage a co-regulatory approach will be adopted.

We are looking forward to seeing the draft Bill and standards. A lot of work is ahead. The project is however evolving. ↓